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U.S. Application No. 09/751,809 Examiner Brown, Art Unit 2611
Submission of RCE in Response to July 13, 2006 Final Office Action

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REMARKS

In response to the final Office Action dated July 13, 2006, the Assignee respectfully requests continued examination and reconsideration based on the above claim amendments and the following remarks. The Assignee respectfully submits that the amended claims distinguish over the cited documents of record.

Claims 6-9 and 19-20 are currently pending in this application. Claims 21-24 have been canceled by this amendment without prejudice or disclaimer.

The United States Patent and Trademark Office (the "Office") rejected claims 6-9 and 19-24 under 35 U.S.C. § 102 (e) as being anticipated by U.S. Patent 6,675,384 to Block.

The Assignee shows, however, that the pending claims are not anticipated by *Block*, so the Assignee respectfully requests that Examiner Brown remove the § 102 (e) rejection.

Rejection of Claims

The United States Patent and Trademark Office (the "Office") rejected claims 6-9 and 19-24 under 35 U.S.C. § 102 (e) as being anticipated by U.S. Patent 6,675,384 to Block *et al.* A claim is anticipated only if each and every element is found in a single prior art reference. *See Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 U.S.P.Q. 2d (BNA) 1051, 1053 (Fed. Cir. 1987). *See also* DEPARTMENT OF COMMERCE, MANUAL OF PATENT EXAMINING PROCEDURE, § 2131 (orig. 8th Edition) (hereinafter "M.P.E.P.").

First, claims 21-24 have been canceled without prejudice or disclaimer, so the rejection of these claims is moot.

Second, claims 6-9 and 19-20 are not anticipated by *Block*. These claims recite, or incorporate, features that are not disclosed by *Block*. Independent claim 6, for example, recites

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"releasing a plot via a website" and *"embedding alternative plots into channels."* Independent claim 6 also recites *"allowing users to vote via the website for the alternative plots," "tabulating the votes,"* and *"sending an instruction for a particular alternative plot."* Support for such features may be found at least at page 9, lines 12-22 of the as-filed application. Independent claim 6 is reproduced below, and independent claim 9 recites similar features.

6. A method of formulating alternative programming, comprising:

releasing a plot via a website;
embedding alternative plots into channels;
allowing users to vote via the website for the alternative plots;
tabulating the votes; and
sending an instruction for a particular alternative plot.

The patent to Block *et al.* does not anticipate these features. No where does Block disclose *"embedding alternative plots into channels"* and *"allowing users to vote via the website for the alternative plots."* The patent to Block *et al.* does not *"tabulat[e] the votes"* and *"[send] an instruction for a particular alternative plot."* Because Block is entirely silent to all these features, the patent to Block *et al.* cannot anticipate independent claims 6 and 9. Moreover, the dependent claims 7-8 and 19-20 incorporate the same features, so the dependent claims are likewise not anticipated. Claims 6-9 and 19-20, then, cannot be anticipated by the cited documents of record, so the Assignee respectfully requests removal of the § 102 (e) rejection.

If any issues remain outstanding, the Office is requested to contact the undersigned at (919) 387-6907 or scott@wzpatents.com.

Respectfully submitted,

BS00023

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A handwritten signature in black ink, appearing to read 'S. P. Zimmerman', with a stylized flourish at the end.

Scott P. Zimmerman
Attorney for the Assignee
Reg. No. 41,390